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Attorneys for Plaintiff
PALMTREE ACQUISITION CORPORATION, a Delaware
corporation f/k/a Catellus Development Corporation

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

PALMTREE ACQUISITION CORPORATION, a
Delaware corporation,

Plaintiff,

vs.

MICHAEL R. NEELY, an individual; PERRY J.
NEELY, an individual; GARY NEELY, an
individual; MICHAEL R. NEELY, PERRY J.
NEELY and GARY NEELY dba MIKE'S ONE
HOUR CLEANERS; CHARLES FREDERICK
HARTZ dba PAUL'S SPARKLE CLEANERS;
CHARLES F. HARTZ, an individual;
MULTIMATIC CORPORATION, a New Jersey
corporation; WESTERN STATES DESIGN, a
California corporation; MCCORDUCK
PROPERTIES LIVERMORE, LLC, a Delaware
limited liability company individually and as the
successor to JOHN MCCORDUCK, KATHLEEN
MCCORDUCK, PAMELA MCCORDUCK,
SANDRA MCCORDUCK MARONA, and IMA
FINANCIAL CORPORATION, a California
corporation; STARK INVESTMENT COMPANY,
a California general partnership; GRUBB & ELLIS
REALTY INCOME TRUST, LIQUIDATING
TRUST, a California trust; NORTHROP
GRUMMAN SYSTEMS CORPORATION, a
Delaware corporation; and DOES 1-20, inclusive,

Defendants.

AND RELATED ACTIONS

CASE NO. CV 08 3168 EMC

**STIPULATION AND [PROPOSED]
ORDER TO FILE SECOND AMENDED
COMPLAINT**

1 WHEREAS, plaintiff and all of the defendants who have appeared, not been dismissed and are
2 represented by counsel desire to file the Second Amended Complaint;

3 WHEREAS, defendant Grubb & Ellis Realty Income Trust, Liquidating Trust has not
4 appeared, is not represented by counsel and claims to have dissolved and to no longer exist, and
5 defendant Northrop Grumman Systems Corporation has settled this matter and been dismissed with
6 prejudice;

7 WHEREAS, the Second Amended Complaint clarifies plaintiff's intent to include in the
8 original complaint and/or adds as defendants John McCorduck, Kathleen McCorduck, Pamela
9 McCorduck, Sandra McCorduck Marona, (collectively the "McCorduck Defendants") and IMA
10 Financial Corporation, a California corporation ("IMA");

11 WHEREAS, the McCorduck Defendants and IMA are prior owners of the Miller's Outpost
12 Shopping Center, which is one of the two shopping centers at issues in this litigation;

13 WHEREAS, as prior owners of the Miller's Outpost Shopping Center, the McCorduck
14 Defendants and IMA face potential liability for the claims in plaintiff's complaint; and

15 WHEREAS, plaintiff and the defendants believe that clarifying and/or adding the McCorduck
16 Defendants and IMA will facilitate settlement of this matter.

17 THEREFORE, IT IS HEREBY STIPULATED by and between attorneys for plaintiff and the
18 defendants (except for Grubb & Ellis Realty Income Trust, Liquidating Trust and Northrop Grumman
19 System Corporation) that plaintiff be granted leave to file the Second Amended Complaint, a copy of
20 which is attached as Exhibit A, on or before July 16, 2011.

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22 APPROVED AS TO FORM AND CONTENT.
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1 DATED: June 23, 2011

COX, CASTLE & NICHOLSON LLP

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3
4 By: /s/
Peter M. Morrisette
Attorneys for Plaintiff
5 PALMTREE ACQUISITION CORPORATION, a
6 Delaware corporation f/k/a Catellus Development
Corporation

7
8 DATED: June 23, 2011

BASSI MARTINI EDLIN & BLUM, LLP

9
10 By: /s/
11 Noel Edin
Attorneys for Defendants
12 MICHAEL R. NEELY, an individual; PERRY J.
NEELY, an individual; GARY NEELY, an
13 individual; MICHAEL R. NEELY, PERRY J.
NEELY and GARY NEELY dba MIKE'S ONE
14 HOUR CLEANERS

15 DATED: June 23, 2011

GONSALVES & KOZACHENKO

16
17
18 By: /s/
Selena P. Ontiveros
Attorneys for Defendant
19 STARK INVESTMENT COMPANY, a California
20 general partnership

21 DATED: June 23, 2011

DONGELL LAWRENCE FINNEY LLP

22
23
24 By: /s/
Thomas F. Vandenburg
Attorneys for Defendant
25 MULTIMATIC CORPORATION, a New Jersey
26 corporation

1 DATED: June 23, 2011

ROGERS JOSEPH O'DONNELL

2
3 By: /s/

4 Robert C. Goodman
5 Attorneys for Defendant
6 CHARLES FREDERICK HARTZ dba PAUL'S
7 SPARKLE CLEANERS; CHARLES F. HARTZ,
8 an individual

9 DATED: June 23, 2011

GORDON WATROUS RYAN LANGLEY BRUNO
& PALTENGHI INC.

10 By: /s/

11 Bruce Clinton Paltenghi
12 Attorneys for Defendant
13 MCCORDUCK PROPERTIES LIVERMORE,
14 LLC, a Delaware limited liability company
15 individually and as the successor to JOHN
16 MCCORDUCK, KATHLEEN MCCORDUCK,
17 PAMELA MCCORDUCK, SANDRA
18 MCCORDUCK MARONA, and IMA
19 FINANCIAL CORPORATION, a California
20 corporation

21 DATED: June 23, 2011

FOLEY MCINTOSH FREY & CLAYTOR

22 By: /s/

23 Jim Claytor
24 Attorneys for Defendant
25 WESTERN STATES DESIGN, a California
26 corporation

27 IT IS SO ORDERED

28 Dated: 6/27/11

